

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING)	
PHARMACY PRODUCTS)	
LIABILITY LITIGATION)	MDL No. 1:13-md-2419-FDS
)	
This Document Relates to:)	Judge Rya W. Zobel
)	
All Cases)	
)	
Handy v. Box Hill Surgery Center, LLC, et al.)	
No. 1:14-cv-14019-RWZ)	
)	
Armetta v. Box Hill Surgery Center, LLC, et al.)	
No. 1:14-cv-14022-RWZ)	
)	
Torbeck v. Box Hill Surgery Center, LLC, et al.)	
No. 1:14-cv-1402-RWZ)	
)	
Kashi v. Box Hill Surgery Center, LLC, et al.)	
No. 1:14-cv-14026-RWZ)	
)	
Bowman v. Box Hill Surgery Center, LLC, et al.)	
No. 1:14-cv-14028-RWZ)	
)	
Dreisch v. Box Hill Surgery Center, LLC, et al.)	
No. 1:14-cv-14029-RWZ)	
)	
Davis v. Box Hill Surgery Center, LLC, et al.)	
No. 1:14-cv-14033-RWZ)	
)	
Farthing v. Box Hill Surgery Center, LLC, et al.)	
No. 1:14-cv-14036-RWZ)	

**DEFENDANT AMERIDOSE LLC'S JOINDER TO THE RESPONSE OF THE
PLAINTIFFS' STEERING COMMITTEE IN RESPONSE TO THE OPPOSITION TO
DISMISSAL FILED BY THE BOX HILL DEFENDANTS**

On June 19, 2015, the Plaintiffs' Steering Committee ("PSC") filed its Motion for Entry of Order to Show Cause Concerning Dismissal of Claims Against Settling Defendants. (ECF No. 1984.) The Court set a response deadline of July 2, 2015. (ECF No. 1992.) There was only one objection, by the Box Hill Defendants, who are involved in only eight cases. (ECF No. 2038.) The PSC filed its response on July 10, 2015. (ECF No. 2078.) Ameridose LLC joins that response and adds three additional points.

First, the Box Hill Defendants filed the only objection to dismissals, and it applies to only eight cases. The Court has every right to begin implementing dismissals of all the other cases pursuant to the plan submitted by the PSC on June 19.

Second, the Box Hill Defendants have either waived their claims, or are simply too late in asserting them. The settlements at issue, by the Affiliated Defendants, were consummated in 2014. They were made part of the Plan in bankruptcy. The Plan also included the releases and channeling injunctions that were clearly designed to bar further litigation against the Affiliated Defendants, whether by direct claim, cross-claim, or third party claim. The Trustee, in both the Bankruptcy Court and this Court, issued notices over seven months ago telling all parties about the date when the Bankruptcy Plan hearing was to take place and when objections were due. The Plan confirmation hearing proceeded on May 19, 2015. The Box Hill Defendants did not object to the settlement or dismissals in Bankruptcy Court. By the terms of the Plan approved May 20, 2015, which became effective June 4, 2015, the channeling injunction has already extinguished any contribution claims against Ameridose and the other affiliates. Their objection is not timely.

Third, the terms of the settlement agreements, all incorporated into the bankruptcy Plan – as pointed out by the PSC – clearly bar the exact type of claims the Box Hill Defendants so belatedly wish to assert. The only thing that could theoretically remain – if permitted under state

law – is a claim like that of the Tennessee Defendants: comparative fault allocations for a reduction of their liability, without a right of actual financial contribution. Such a claim does not require a settling party to remain an actual defendant for purposes of the allocation. There is no legal basis upon which the Box Hill Defendants can object to the dismissals of Ameridose or other Affiliated Defendants.

For these reasons, as well as those asserted by the PSC, Ameridose requests that the Court overrule the objection by the Box Hill Defendants and proceed to implement dismissals of the cases, as outlined by the PSC's Motion, ECF No. 1984.

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been filed with the Clerk of the Court on July ____, 2015 using the ECF system that sent notification of this filing to all ECF – registered counsel of record via e-mail generated by the Court’s ECF system.

/s/ Matthew P. Moriarty

Attorney for Defendant Ameridose, LLC